

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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WILLIAM R. NOLAN,

Plaintiff,

-against-

THE CITY OF NEW YORK, and  
JOSEPH REZNICK, and  
RAYMOND SPINELLA, and  
MICHAEL BARRETO, and  
ASIF IQBAL, and POLICE DETECTIVE JAMES  
BUTLER, and POLICE OFFICER BRYAN BURGESS,  
and POLICE OFFICER JOHN DOE, all in their  
individual and official capacities, and JOSE  
RODRIGUEZ, individually,

Defendants.

Index. No.: 19-cv-00187-RPK-ST

**AFFIRMATION IN SUPPORT  
OF REQUEST FOR  
CERTIFICATE OF DEFAULT**

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I, ANDREW C. WEISS, ESQ., hereby declare pursuant to 28 U.S.C. § 1746, as follows:

1. I am a member of the Bar of this Court, and I am an associate attorney with Borrelli & Associates, P.L.L.C., attorneys for Plaintiff, WILLIAM R. NOLAN, in the above-captioned action. I am familiar with the facts and circumstances in this action.

2. I make this affirmation pursuant to Federal Rules of Civil Procedure 55(a), and Local Rule 55.1 of the Local Rules for the Eastern District of New York, in support of Plaintiff's Request for a Certificate of Default against Defendant, JOSE RODRIGUEZ ("Defendant").

3. Plaintiff commenced this action based upon Defendants' collective violations of Plaintiff's rights guaranteed to him by: (i) the Freedom of Speech and Right to Petition provisions of the First Amendment of the United States Constitution; (ii) the prohibition against unreasonable seizures provision of the Fourth Amendment of the United States Constitution, and (iii) the Second

Amendment of the United States Constitution; (iv) the Fourth, Fifth, and Sixth Amendments of the United States Constitution, in relation to Plaintiff's malicious prosecution claim; (v) the Fifth and Sixth Amendments of the United States Constitution, in relation to Plaintiff's denial of right to fair trial claim; (vi) the First, Second, and Fourth Amendments of the United States Constitution, in relation to Plaintiff's civil conspiracy claim; (vii) the Fourth, Fifth, Sixth, and Eighth Amendments of the United States Constitution, in relation to Plaintiff's failure to intervene claim, each made applicable to the City Defendants vis-à-vis the Due Process Clause of the Fourteenth Amendment of the United States Constitution, and all to be enforced vis-à-vis 42 U.S.C. § 1983, and each of which City Defendants acted in conspired with Defendant Rodriguez to violate; (ix) New York common law, in relation to Plaintiff's claims of abuse of process, conversion, and negligent hiring, training, and retention.

4. Plaintiff initially commenced this action on January 9, 2019, by the filing of his Complaint with the Court. *See* Dkt. No. 1.

5. On April 24, 2023, Plaintiff filed his Amended Complaint naming Defendant Jose Rodriguez. *See* Dkt. No. 59.

6. Service of Plaintiff's Amended Complaint was properly made on Defendant by serving of a copy of the same on him personally, at 3 Ferndale Avenue, Staten Island, New York 10314, on May 22, 2023. *See* Dkt. No. 64.

7. On June 7, 2023, Plaintiff filed his Second Amended Complaint. *See* Dkt. No. 66.

8. On June 16, 2023, Defendant's motion for an extension of time to interpose an answer or otherwise interpose a response to Plaintiff's Amended Complaint was filed by the Court. *See* Dkt. No. 67.

9. On June 21, 2023, Judge Tiscione issued an Order granting Defendant's motion for an extension of time to answer, and extended his time to answer to August 14, 2023. That same day, Plaintiff mailed a copy of Judge Tiscione's Order to Defendant Rodriguez, and filed proof of service with the Court. *See* Dkt. No. 68.

10. On June 21, 2023, Plaintiff also properly served Defendant, by personal service, at 3 Ferndale Avenue, Staten Island, New York 10314, with Plaintiff's Second Amended Complaint. *See* Dkt. No. 71.

11. On August 15, 2023, the time for Defendant to answer or otherwise move with respect to Plaintiff's operative complaint expired.

12. To date, Defendant has not answered, or otherwise moved with respect to the complaint, and the time for Defendant to answer or otherwise move has not been extended.

13. Defendant is not an infant or incompetent.

14. Defendant is not presently in the military of the United States as appears from facts of this litigation.

15. Defendant is in indebted to Plaintiff for the reasons set out in Plaintiff's operative complaint. *See* Dkt. No. 71.

**WHEREFORE**, Plaintiff respectfully requests that the default of Defendant JOSE RODRIGUEZ, be noted and a certificate of default issued.

Dated: Garden City, New York  
October 27, 2023

Respectfully submitted,

BORRELLI & ASSOCIATES, P.L.L.C.

By:

  
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